HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 795 of 2007

Between:

Telugu Academy, rep. by its Director,
Hyderabad & another.

... Appellants

And

T. Venkata Muni & others

... Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri J. Sudheer,
Special Government Pleader

September 24, 2007

Per G.S. SINGHVI, C.J.

This is an appeal for setting aside interlocutory order dated 20-8-2007 passed by the learned Single Judge in WPMP.No.19703 of 2007 in Writ Petition No.15571 of 2007, whereby he directed the appellants herein to continue the writ petitioners as Hamalis, if persons junior to them are being engaged.

Sri J. Sudheer, learned Special Government Pleader appearing for the appellants spent considerable time in trying to convince us that the direction given by the learned Single Judge will place unbearable burden on his clients and argued that they cannot be forced to engage

the respondents, who were initially engaged only as Daily Wage Hamalis, but we have not felt persuaded to overturn the innocuous direction given by the learned Single Judge.

It is not in dispute that the respondents were engaged as Hamalis in August 2002, by the then Director of appellant No.1 for working at the Regional Centre at Tirupati, Chittoor District and that they have continuously worked for the last almost five years. It is also not in dispute that the In-charge of the Regional Centre of appellant No.1 had sent proposal dated 30-8-2006 for regularisation of the services of the respondents, but without considering the same, the present Director of appellant No.1 (respondent No.3 in the appeal) not only engaged two persons namely, Sri B. Balaji and Sri T. Raghu, but also terminated their services. The learned Single Judge took cognizance of this factual matrix and passed the order under challenge, the relevant portion of which reads as under:

> "The letter dated 30-8-2006 addressed by the 2nd respondent – Telugu Academy Regional Centre to the 1st respondent – Telugu Academy shows that the petitioners were engaged from 1-8-2002. The Hamalis Weekly Payment Sheet produced by the petitioners shows that the petitioners worked till 30-6-2007 and received salary. Though the Hamalis Weekly Payment Sheet shows that the petitioners worked till 30-6-2007, it is the case of the petitioners that they worked with the 2nd respondent till 17-7-2007. Inasmuch as the documents produced by the petitioners show that the petitioners were engaged as Hamalis from 1-8-2002, and received payment till 30-6-2007, and since it is the case of the petitioners that the 3rd respondent to accommodate the persons appointed by him, has dispensed with their services orally and continuing the persons appointed by him, who are much junior to the petitioners, I am of the considered opinion that the petitioners have made out a prima facie case for grant of interim directions.
>
> Hence, there shall be interim directions to the respondents to continue the petitioners as Hamalis, if persons junior to them are

being engaged."

In our opinion, the projection made by the learned Special Government Pleader about the possible undue financial burden on appellant No.1 is purely imaginary. The oral statement made by the learned counsel is not supported by any tangible material. Not only this, the engagement of two fresh hands by respondent No. 3 belies the submission of the learned Special Government Pleader. If the respondents were continued for a period of five years, it is not possible to appreciate the anxiety of respondent No.3 to engage new persons and thereby manipulate their exit.

The argument of Sri J. Sudheer that the engagement of the respondents as Hamalis did not confer upon them a legally enforceable right sounds attractive, but we are not inclined to interfere with the direction given by the learned Single Judge, which is essentially just and is intended to enforce the doctrine of equality enshrined in Articles 14 and 16 of the Constitution and philosophy underlying the rule of "last come, first go" embodied in Section 25-G of the Industrial Disputes Act, 1947.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.1588 of 2007 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, C.J.

24th September , 2007

C.V. NAGARJUNA REDDY, J.

ARS